

RECEIVED
CENTRAL FAX CENTER

DEC 13 2004

Docket No. F-7886

MAILSTOP PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Robert KOCH, et al.
Serial No. : 10/616,322
Filed : July 8, 2003
For : PLEAT OR CORRUGATION OF A BELLOWS OF A
CONNECTION BETWEEN TWO HINGE-LINKED
VEHICLES OR VEHICLE SECTIONS E.G., OF AN
ARTICULATED BUS
Group Art Unit : 3612
Examiner : Kiran B. Patel
Confirmation No. : 1374
Customer No. : 000028107

Certificate of Facsimile Transmission Under 37 CFR 1.8

I hereby certify that this correspondence is being transmitted in accordance with 37 CFR §1.6(d) to the United States Patent Office addressed to COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450 on DEC. 13, 04 to facsimile no. (703) 872-9306.

TOTAL NUMBER OF PAGES TRANSMITTED: 6
PLEASE TRANSMIT ACKNOWLEDGMENT TO 212 953 7733

Frank J. Jordan
(Name)

Frank J. Jordan
(Signature)

MAIL STOP PETITIONS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.181 REQUESTING
THE PATENT OFFICE TO WITHDRAW THE NOTICE OF
NON-RESPONSIVE AMENDMENT DATED NOVEMBER 24, 2004

Sir:

F7886 Petition.wpd

Docket No. F-7886

Ser. No. 10/616,322

This is a Petition Under 37 CFR 1.181 Requesting the Patent Office to Withdraw the Notice of Non-Responsive Amendment Dated November 24, 2004.

Applicant filed an Amendment dated October 25, 2004 in response to the Official Action dated June 24, 2004. In the Amendment, applicant cancelled claims 1 to 6 and added new claims 7 to 22. Attached to the Amendment dated October 25, 2004 was a copy of "Informal Submission of Claims With Numerals for Use During Interview With the Examiner" wherein applicant included reference numerals for all of the claims, thereby specifically relating each claimed element to the disclosure.

In the Notice of Non-Response of Amendment dated November 24, 2004, the Examiner stated that applicant's Amendment submitted new claims 7 to 22 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

"Claimed limitations (exclusion of vehicle and others) are different then the original presentation. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 7-22 are withdrawn from consideration as being directed to a non-elected

Docket No. F-7886

Ser. No. 10/616,322

invention. See 37 CFR 1.142(b) and MPEP §
821.03." (underlining added)

The only reason given that the presently claimed invention is different from the invention of claim 1 to 6 is the Examiner's statement: "exclusion of vehicle and others". The Examiner has not identified what is meant by "and others". Applicant has carefully reviewed the claims and believes that there are not any "others". Applicant cannot address this any further without the Examiner specifically identifying what is meant by "others".

As regards to the "exclusion of vehicle", applicant's original claims 1 to 6 did not positively claim the "vehicles" or "vehicle sections" but merely recited these in the introductory portion of the claims. Thus, the "vehicles" or "vehicle sections" are not part of the positively claimed combination set forth in claims 1 to 6. The recitation of "vehicles" or "vehicle sections" in the introductory portion of claims 1 to 6 merely indicates what the bellows is used for. Excluding the recitation of the "vehicles" or "vehicle sections" from the claims (as in new claims 7 to 22) does not mean that claims 7 to 22 are directed to an invention that is independent or distinct from the invention originally claimed in claims 1 to 6 as the Examiner asserts.

Docket No. F-7886

Ser. No. 10/616,322

The Examiner further states as follows:

"The reply filed on 10/27/04 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the applicant has canceled claims 1-6 and did not rewrite or amend claims 1-6 to overcome the rejection(s) under 35 USC 112, second paragraph, set forth in the prior office action." (Underlining added)

The Examiner's assertion that the applicant "did not rewrite or amend claims 1-6 to overcome the rejection under 35 USC 112" is not understood. This is precisely what applicant did. Applicant rewrote claims 1 to 6 and submitted new claims 7 to 22. Claim 7 to 22 overcome the rejections under 35 USC 112 as clearly set forth in the Remarks of the Amendment dated October 25, 2004 and as further set forth in the previously mentioned "Information Submission of Claims With Numerals for Use During Interview With the Examiner". It is respectfully submitted that new claims 7 to 22 are in strict compliance with requirements of 35 USC 112, second paragraph. In view of the above, it is respectfully requested that the Examiner withdraw the statement in Paragraph No. 2 on page 2 of the Notice of Non-Response of Amendment dated November 24, 2004.

Docket No. F-7886

Ser. No. 10/616,322

In the prior Official Action dated June 24, 2004, the Examiner stated that all the limitations in the claims must be shown or the features cancelled from the claims. Since the "vehicles" are not shown in the drawings, when preparing the Response to the Official Action dated June 24, 2004, applicant omitted the "vehicles" from the introductory portion of the claims in order to address the Examiner's requirement that the features not shown must be cancelled from the claims.

In view of the above remarks, it is respectfully submitted that the Amendment dated October 25, 2004 be considered fully responsive to the Official Action dated June 24, 2004 and that the Patent Office enter the Amendment dated October 25, 2004.

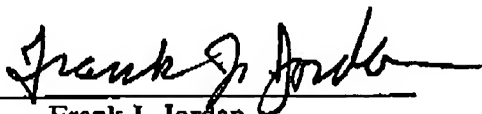
Docket No. F-7886

Ser. No. 10/616,322

It is believe there is no charge for filing this Petition. However, if there is, please charge the Petition fee of \$180.00 to Deposit Account 10-1250. If there are any additional charges, please charge to this same Deposit Account No.

Respectfully submitted,

JORDAN AND HAMBURG LLP

By 

Frank J. Jordan
Reg. No. 20,456
Attorney for Applicants

Jordan and Hamburg LLP
122 East 42nd Street
New York, New York 10168
(212) 986-2340

FJJ/cj